

**Arkansas State Board of Chiropractic Examiners
Board Meeting / Credentials Review
Thursday, December 8, 2016**

CALL TO ORDER

The meeting was called to order by Julie Traylor-Logan, D.C., President, at 10:12 a.m.

ROLL CALL

Board Members present:

J. Kent Moore, D.C.
Thomas D. Taylor, D.C., FICA
Harold Gunter
Jack McCoy
Michael Courtney, D.C.
Dustin Heard, D.C.
Julie Traylor-Logan, D.C.

Board Members absent:

None

Staff Members present:

Laurie Mayhan, Executive Director
Reid Adkins, Assistant Attorney General

Guests Present:

Chris Cathey, D.C.
Will Clark (Davis Law Firm)
Gaylon Carter, D.C.
Terrance P. Carolan, D.C.

MINUTES

The October 4, 2016 minutes were presented to the Board. A motion to approve the minutes was made by Dr. Taylor and seconded by Mr. McCoy. Motion passed unanimously.

DIRECTOR'S REPORTS

Budget Report

The cash flow statements for **September, October and November** were presented to the Board along with the November monthly Expenditure Report by Appropriation and the November Monthly Revenue Summary Report by Fund.

As of December 1, 2016 the total expense is \$49,971.08 with \$137,469.92 remaining.

As of December 1, 2016 the total FY2017 revenue is \$62,963.09 which includes licensee fees, applicant fees, interest, refunds/reimbursements, and rebates. Total overall revenue is \$446,222.63 which includes Fund Balance, Cash Fund and FY2017 revenue.

CE Report FY2017

(July 1, 2016 – October 3, 2016)

Status	Apps received	Class hours offered	Fee Due	Fee Paid
Approved	166	1754	\$8,770.00	\$8,770.00
Approved with Exception	6	606	\$3,030.00	\$3,030.00
Not Approved	3	48	\$240.00	\$240.00
Pending	2	37	\$185.00	\$185.00
Cancelled	0	0	\$0.00	\$0.00
Incomplete	0	0	\$0.00	\$0.00
Void	1	0	\$0.00	\$0.00
Total:	178	2,445	\$12,225.00	\$12,225.00

2017 License Renewal

- 629 License Renewal notices were mailed September 1, 2016
- 229 completed license renewals have been received and processed as of 12/08/16.
 - 400 license renewals remaining

FOIA Report

19 Freedom of Information Act requests have been received and completed thus far for FY2017 (July 1, 2016- June 30, 2017).

A motion to accept the Directors reports was made by Dr. Courtney. Motion seconded by Mr. McCoy. Motion passed unanimously.

OLD BUSINESS

Proposed language regarding: Part IV, NBCE transcript, Corp. Certificates/registrations, Complaint procedures, FBI background checks, Animal Chiropractic, Fill in/ vacation coverage, Temporary license rule, etc.

A second draft bill was presented to the Board for further review.

A motion was made by Dr. Taylor to amend page 2 of the draft regarding 17-81-302 (2)(B)(i) adding a timeline as to when the written notice shall be submitted, 30 days before travel. The motion was seconded by Dr. Courtney. Discussion followed about the 30 days being inconvenient as one doesn't always know their travel plans that far in advance. The motion and second were amended to state 7 days instead of 30 days. Motion passed unanimously.

Hyperbaric Therapy (HBOT)

A current license applicant inquired as to whether Hyperbaric Therapy is within the Arkansas Chiropractic scope of practice. The Board deferred this to counsel in July for confirmation as to whether the percentage of oxygen being used affects its prescription drug status. Research was presented to the Board by counsel and the executive director. This topic was approved in 2009 after Dr. Jason Collins had inquired about it, however the question about oxygen percentages was not noted in 2009. A motion was made by Dr. Taylor stating that Hyperbaric Therapy is within the scope of practice as long as it is under the supervision and prescription of a Medical Doctor and not a Chiropractor. Mr. McCoy seconded the motion. After discussion on this topic Dr. Taylor withdrew his motion. Dr. Courtney volunteered to reach out to UAMS and possibly some other contacts to pose the question, at what point is oxygen not considered a drug?

Dr. Courtney presented his research and made the motion that oxygen, based on our current law, is a legend drug and is not permissible in current chiropractic practice, but that oxygen concentrators and recreational oxygen can be used. Motion seconded by Mr. Gunter. Discussion followed. Dr. Courtney rescinded his motion pending receipt of a powerpoll. Mr. Gunter rescinded his second. Dr. Courtney then motioned that we get a powerpoll to see if any other states have looked into HBOT. Motion seconded by Mr. Gunter. Motion passed unanimously.

Serge Pierre Francois

Licensure was not issued to this applicant in July 2015 due to complaint(s) being received prior to delivery of a license. The complaint(s) have since been dismissed. At the Board's last meeting a vote was passed to forward complaint 618-07-21-15 to the Medical Board and wait until a response was received before we re-evaluate the applicant for issuance of a license. The Director followed up with the Medical Board prior to today's meeting and was informed that the Medical Board may not get a formal response to us by today's meeting. The Board's counsel stated that he spoke with the Medical Board's attorney and that their attorney was going to notify the Arkansas Spine & Wellness corporation that they are not in compliance with the Medical Corporation Act. Mr. Clark, who attended the meeting on behalf of Dr. Francois, stated that Dr. Francois has no ownership interest in that corporation and has been verified by documents provided by his out of state counsel and independent documents provided by the secretary of state's office. A motion was made by Dr. Moore to grant Dr. Francois a license. Motion was seconded by Mr. McCoy. Motion passed unanimously.

NEW BUSINESS

Status Change Requests

Dr. Barry Southerland requested to change his status from Inactive to Active (in-state). All renewal documents have been received and CIN-BAD check was clear. Motion to approve was made by Dr. Courtney with a second by Mr. McCoy. Motion passed unanimously.

Dr. Candice Holt requested to change her status from Active-Out of State to Active (in-state). All renewal documents have been received and CIN-BAD check clear. Motion to approve was made by Dr. Moore with a second by Dr. Heard. Motion passed unanimously.

Cupping

Dr. Kassie Wiest requested Board confirmation on whether cupping was within the Arkansas Chiropractic scope of practice. A motion was made by Dr. Courtney that cupping is within the scope of practice. Motion seconded by Dr. Taylor. Dr. Moore opposed, motion passed.

Continuing Education extension/waivers

Dr. James Burke requested a CE extension if he cannot meet the requirement before December 31st due to his current circumstances. The Board reviewed his request and a motion was made by Dr. Taylor to request that the licensee provide a certificate from his doctor about his condition and his inability to make the continuing education requirements, and contingent upon that being received we allow him to take 12 online hours and waive the 12 onsite hours required. Motion seconded by Dr. Courtney. Discussion followed to clarify that if Dr. Burke turns in his renewal and 12 online hours by December 31st he will not be assessed the late penalty. Motion passed unanimously.

Dr. Jeffrey Tucker requested an extension of the approval dates on 12 of his online CE hours. The course approval for the 12, online, continuing education courses had expired in July of 2016, however he didn't take the courses until October of 2016. A motion was made by Mr. McCoy to deny his request and that he has time to get 12 hours that are approved at the time of taking the courses. Motion seconded by Mr. Gunter. Dr. Moore abstained, motion passed.

Continuing Education Approval for Teaching Courses

Dr. James Raker submitted a letter to the Board asking them to consider adopting a rule to allow chiropractors who teach at an accredited seminar, approved by the Board, the ability to use those teaching hours as their continuing education. A motion was made by Dr. Moore to deny the request and not allow teaching hours as continuing education. Motion was seconded by Mr. McCoy. Motion passed unanimously.

CREDENTIALS REVIEW

Tanner Wayne Coleman- Completed application on file, no disciplinary history. Dr. Courtney motioned to approve credentials and to allow applicant to attend orientation, motion seconded by Dr. Moore. Motion passed unanimously.

Christine Louise Dunsworth- Completed application on file, applying for transfer license, no disciplinary history. Dr. Taylor motioned to approve credentials and to allow applicant to attend orientation, motion seconded by Mr. McCoy. Motion passed unanimously.

Timothy D. Henderson- Completed application on file, eligible for transfer license, no disciplinary history. Dr. Moore motioned to approve credentials and to allow applicant to attend orientation and give him a transfer license if applicant wants it, motion seconded by Dr. Taylor. Motion passed unanimously.

Michael Allen Miller- Completed application on file, no disciplinary history. Dr. Heard motioned to approve credentials and to allow applicant to attend orientation, motion seconded by Mr. McCoy. Motion passed unanimously.

Christin Michelle Phillips- Completed application on file, no disciplinary history. Mr. McCoy motioned to approve credentials and to allow applicant to attend orientation, motion seconded by Dr. Courtney. Motion passed unanimously.

Steven Kent Runnels- Completed application on file, eligible for transfer license, no disciplinary history. Dr. Moore motioned to approve credentials and to allow applicant to attend orientation and give him a transfer license if applicant wants it, motion seconded by Mr. McCoy. Motion passed unanimously.

Blake Alan Butler- Application complete pending graduation and receipt of Part IV, Chiropractic diploma and chiropractic college transcript. No disciplinary history. Dr. Moore motioned to approve credentials and to allow applicant to attend orientation then receive a license pending the receipt of diploma, transcript and passing Part IV score. Motion seconded by Mr. McCoy. Motion passed unanimously.

Anna Alexandra George- Application complete pending graduation and receipt of Part IV, Chiropractic diploma and chiropractic college transcript. No disciplinary history. Dr. Moore motioned to approve credentials and to allow applicant to attend orientation then receive a license pending the receipt of diploma, transcript and passing Part IV score. Motion seconded by Mr. McCoy. Motion passed unanimously.

John Dylan Machycek- Application complete pending graduation and receipt of Part IV, Chiropractic diploma and chiropractic college transcript. No disciplinary history. Mr. McCoy motioned to approve credentials and to allow applicant to attend orientation then receive a license pending the receipt of diploma, transcript and passing Part IV score. Motion seconded by Dr. Heard. Motion passed unanimously.

Taylor James Stevens- Application complete pending graduation and receipt of Part IV, Chiropractic diploma and chiropractic college transcript. No disciplinary history. Mr. McCoy motioned to approve credentials and to allow applicant to attend orientation then receive a license pending the receipt of diploma, transcript and passing Part IV score. Motion seconded by Dr. Heard. Motion passed unanimously.

James Michael Galvin, III- Application complete pending graduation and receipt of Part IV, Chiropractic diploma and chiropractic college transcript. Has disciplinary history, misdemeanor. After consideration of disciplinary history, Dr. Moore motioned to approve credentials and to allow applicant to attend orientation then receive a license pending the receipt of diploma, transcript and passing Part IV score. Motion seconded by Mr. McCoy. Motion passed unanimously.

Kathryn Brandi Hill- Completed application of file with disciplinary history, misdemeanor. After consideration of disciplinary history, Mr. McCoy motioned to approve credentials and to allow applicant to attend orientation, motion seconded by Dr. Heard. Motion passed unanimously.

Sarah Elizabeth Slattery- Application complete pending the receipt of Part IV passing score. Has disciplinary history, misdemeanor. After consideration of disciplinary history, Dr. Moore motioned to approve credentials and to allow applicant to attend orientation and receive a license pending the receipt of Part IV passing score. Motion seconded by Mr. McCoy. Motion passed unanimously.

INVESTIGATION REPORT

Complaint Report

	Recommendations	Complaint No.	Complaint Description
1	Hearing 04/11/2016	525-2-18-14	Unprofessional Conduct
2	Further Investigation	572-12-3-14	Solicitation
3	Further Investigation	577-01-30-15	Solicitation/ unprofessional conduct
4	Further Investigation	598-03-31-15	Aiding or abetting an unlicensed practitioner Unregistered procurers
5	Fwd. to OIG / no response yet	602-04-27-15	Unprofessional Conduct
6	Fwd. to OIG / no response yet	603-04-27-15	Advertising
7	Further Investigation	604-04-29-15	Unregistered Procurer/ Unprofessional conduct
8	Pending	633-02-16-16	Solicitation by Procurer
9	Pending	635-02-16-16	Solicitation
10	Pending	637-02-25-16	Solicitation
11	Pending	638-04-07-16	Solicitation
12	Close	640-05-23-16	Solicitation (soliciting patient at other Chiro. Clinic)
13	Pending	644-08-31-16	Suspected Fraud by Solicitation
14	Pending	645-08-31-16	Billing for services not rendered, Duplicate Billing, Excessive Treatment
15	Pending	648-09-21-16	Billing Fraud
16	Pending	649-09-22-16	Solicitation
17	Pending	650-10-06-16	Billing Fraud
18	Pending	651-10-06-16	solicitation
19	Pending	652-10-06-16	Billing Fraud
20	Pending	653-10-06-16	Billing Fraud
21	Pending	654-10-06-16	Billing fraud
22	Pending	655-10-06-16	Billing Fraud & Solicitation
23	Pending	656-10-06-16	Billing Fraud & Solicitation
24	Pending	657-10-06-16	Billing Fraud
25	Pending	658-10-06-16	Billing Fraud
26	Pending	659-10-06-16	Billing Fraud
27	Pending	660-10-06-16	Billing fraud
28	Pending	661-10-06-16	Billing Fraud
29	Pending	662-10-06-16	Billing Fraud
30	Pending	663-10-18-16	Billing Fraud / solicitation
31	Pending	664-10-19-16	Billing
32	Pending	665-10-28-16	Billing
33	Pending	666-11-01-16	Practicing without a license, & advertising
34	Pending	667-11-03-16	Unprofessional Conduct
35	Pending	668-10-08-16	C(2)(o) fail to keep accurate records, C(4) improper charges, C(2)(1) using 'Doctor' without indicating...
36	Pending	669-11-14-16	Solicitation/ misrepresentation

The hearings for complaint's **525-2-18-14** and **640-05-23-16** were originally scheduled for today, but were postponed.

The Board's counsel presented the investigative committees recommendation to dismiss the hearing for complaint 640-05-23-16 due to the complainant wanting to withdraw the complaint. Dr. Courtney motioned to dismiss complaint 640-05-23-16. Motion seconded by Dr. Moore. Motion passed unanimously.

The Board's counsel presented the investigative committees recommendation to reschedule the hearing for 525-2-18-14 due to a conflict of interest with the hearing officer. This hearing has been postponed until a new hearing officer and date can be scheduled. Dr. Courtney motioned that the hearing be set for April 11, 2016. Motion seconded by Dr. Taylor. Motion passed unanimously.

A motion was made by Dr. Heard to approve the investigative report with the recommendations of the investigative committee and or Board. Motion seconded by Mr. McCoy. Motion passed unanimously.

The Board President presented to the board that we need to draft some internal rules with regard to a timeframe as to when complaints should be completed. She will try and help draft those internal rules and procedures. Maybe this will help the investigative committee close out the complaints quicker.

Other Items before the Board

The Board President recognized Dr. Gaylon Carter. Dr. Carter presented a couple of concerns that were brought to his attention as the president of the Arkansas Chiropractic Physicians Association.

Dr. Carter presented to the Board that at the, October 13, 2013, Commission on Law Enforcement Standards and Training meeting it was stated in the minutes that, "The question of allowing Chiropractic Physicians to conduct the physical exams for the basic training students was discussed. A motion was made and seconded to allow only licensed Medical Doctors to perform Physical Examinations for incoming students for basic training." Dr. Carter would like the Board to go on record stating that chiropractors have the same right as medical doctors to perform physical exams. Dr. Courtney made a motion that a letter be sent to the appropriate authorities indicating that chiropractic physicians are licensed to do examinations and to reiterate our statute that any certificate of health that we sign is with like authority as any other physician. Motion seconded by Mr. McCoy. Discussion followed. Dr. Courtney stated the statute his motion refers to is 17-81-102 (5) and 17-81-106. Dr. Taylor asked if this has anything to do with ERISA. Dr. Carter stated, No. Motion passed unanimously.

Dr. Carter presented to the Board that it appears insurance companies are determining the scope of practice for Arkansas Chiropractors. Dr. Carter asked if the Board would write a statement regarding the scope of practice so that if insurance companies deny procedures that are within the scope of practice the chiropractor will have something in writing to give to the insurance company proving otherwise. The Board's counsel stated that the scope of practice is written in statute. Dr. Traylor-Logan gave a directive to counsel, Reid Adkins, to look into this and possibly drafting a letter.

ADJOURN

Mr. McCoy moved to adjourn. Mr. Gunter seconded the motion. The motion passed unanimously. The Board adjourned at 11:56 a.m.

Board minutes approved: January 10, 2017